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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/556,061

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EXAMINER

EDUN, MOHAMMAD N

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/556,061

Applicant(s)

WATANABE ET AL.

Examiner

MUHAMMAD N. EDUN

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-16 and 18 is/are allowed.
- 6) ☒ Claim(s) 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                 | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### **Claim Rejections - 35 USC § 101**

#### **35 U.S.C. 101 reads as follows:**

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Claim 17 is drawn to a "program" *per se* as recited in the preamble and as such is non-statutory subject matter. See MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus

statutory. Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs are not physical “things.” They are neither computer components nor statutory processes, as they are not “acts” being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

**Allowable Subject Matter**

**Claims 1-16 and 18 are allowed.**

**The following is a statement of reasons for the indication of allowable subject matter:**

**Re Claims 1-15**

The prior art of record alone or in combination does not teach or suggest the recording device having the combination of elements with their cited functions, along with having: an unattended-recording unit operable to execute unattended recording in which a content preset for recording is acquired from a broadcast signal and recorded to a designated recording destination, being one of the first and second recording media; and a control unit operable to

cause the dubbing unit to (i) suspend the dubbing prior to the start of the unattended recording if the dubbing is being executed, and (ii) resume the dubbing after the end of the unattended recording if the dubbing has been suspended, as set forth in claims 1-15.

#### **Re Claim 16**

The prior art of record alone or in combination the method for controlling the execution by a recording device having the combination of steps with their recited process, along with having: unattended recording in which a content preset for recording is acquired from a broadcast signal and recorded to one of the first and second recording media, comprising the steps of: causing the dubbing to be suspended prior to the start of the unattended recording if the dubbing is being executed; and causing the dubbing to be resumed after the end of the unattended recording if the dubbing has been suspended, as set forth in claim 16.

#### **Re Claim 18**

The prior art of record alone or in combination the teach or suggest the integrated circuit included in a recording device having the combination of element with their recited functions, along with having: an unattended-recording unit operable to execute unattended recording in which a content preset for recording is acquired from a broadcast signal and recorded to a designated recording destination, being one of the first and second recording media; and a control unit operable to cause the dubbing unit to (i) suspend the dubbing prior to the start of the unattended recording if the dubbing is being executed, and (ii) resume the dubbing after

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the end of the unattended recording if the dubbing has been suspended, as set forth in claim 18.

### **Conclusion**

**The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.**

Sugaya (US 2005/0123276), Yap et al. (US 2001/0033736) and Goto et al. (7,158,713), all disclose a recording and reproducing device having the copying information and also the ability of recording information received from a broadcast source.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUHAMMAD N. EDUN whose telephone number is 571-272-7617. The examiner can normally be reached on FLEXITIME.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**MUHAMMAD N EDUN**  
**Primary Examiner**  
**Art Unit 2627**